In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 1621

CALVIN CLARK, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial in the United States District Court for the Western District of Pennsylvania, petitioner was convicted on two counts charging violations of the narcotics laws with respect to heroin (21 U.S.C. 174; 26 U.S.C. 4704(a)). He was sentenced to concurrent prison terms of ten years and to pay a fine totalling $5000. The court of appeals affirmed (Pet. App. B).

Petitioner contends that evidence of more than three hundred glassine bags containing heroin, some of which bore his fingerprints, should have been suppressed as the fruit of unlawful custodial interrogation absent warnings under *Miranda* v. *Arizona*, 384 U.S. 436. He also maintains that the proof at trial as to the chain of custody of the seized narcotics was insufficient to support his conviction. These contentions, which on the facts of record may properly be characterized as frivolous, are fully answered in the opinion of the court below, on which we rely.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

JUNE 1970.

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